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PLR-111641-07

Date:

May 31, 2007

Legend:

Distributing =

Controlled =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

PLR-111641-07

2

Sub 6 =

Sub 7 =

Sub 8 =

Sub 9 =

Sub 10 =

Sub 11 =

Sub 12 =

Sub 13 =

FSub 1 =

FSub 2 =

FSub 3 =

FSub 4 =

FSub 5 =

FSub 6 =

FSub 7 =

FSub 8 =

FSub 9 =

FNewco =

LLC 1 =

LLC 2 =

LLC 3 =

Business A =

Business B =

Date A =

Date B =

Date C =

Date D =

Date E =

Date F =

Date G =

Date H =

a =

b =

c =

d =

e =

f =

g =

h =

i =

Country A =

Q =

Dear :

This letter responds to your March 7, 2007 letter requesting rulings on certain federal income tax consequences of a series of proposed transactions. The information submitted in that request and later correspondence is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

In particular, this office has not reviewed any information pertaining to whether any distribution (each described below): (i) satisfies the business purpose requirement of § 1.355-2(b); (ii) is used principally as a device for the distribution of earnings and profits of the distributing corporation or the controlled corporation or both (see § 355(a)(1)(B) and § 1.355-2(d)); and (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in any distributing corporation or controlled corporation (see § 355(e) and § 1.355-7).

Summary of Facts

Distributing is the common parent of an affiliated group of corporations that files a consolidated federal income tax return. Distributing is a publicly traded domestic corporation with a single class of common stock outstanding. Distributing directly owns all of the outstanding interests in LLC 1 and LLC 3, each of which is a disregarded entity for federal income tax purposes, and all of the outstanding stock of Sub 1, Sub 2, Sub 3, Sub 4 and Sub 13. Distributing also owns all of the outstanding common stock of Sub 5, and a% (less than 1%) of the outstanding common stock of Sub 6. Sub 5 owns all the remaining b% of the outstanding common stock of Sub 6. Sub 5 owns all of the outstanding stock of FSub 1 and FSub 2. FSub 2 owns all of the outstanding stock of FSub 3.

Sub 6 owns all of the outstanding stock of FSub 4, a disregarded entity for federal income tax purposes. FSub 4 owns all of the outstanding stock of FSub 5. Sub 6 also own securities of FSub 5 (the "Equity Securities") that Distributing has treated as equity of FSub 5 for federal income tax purposes. FSub 5 owns all of the outstanding stock of FSub 6 and FSub 7, and indirectly owns all of the outstanding stock of FSub 9. On Date A, FSub 5 transferred to FSub 6 all of the outstanding stock of FSub 8, a disregarded entity for federal income tax purposes and then on Date B also transferred cash to FSub 6 (The "FSub 5 Transfers").

LLC 1 owns all of the outstanding stock of Sub 7 and Sub 8. Sub 7 owns all of the outstanding stock of Controlled, Sub 9, and Sub 10. From Date C until Date D, Controlled owned all the stock of Sub 12 which converted on Date D to LLC 2. Controlled continues to own all of the outstanding interests in LLC 2, a disregarded entity for federal income tax purposes and all of the stock of Sub 11.

Distributing is engaged through its subsidiaries in several businesses, including Business A and Business B. Distributing has submitted financial information indicating that each of Business A and Business B (as conducted by FSub 8) has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

As part of Distributing's conduct of Business A, Sub 13 and FSub 9 hold, and may continue to hold after the Distribution, certain debt instruments of Controlled as Q ("Q Debt"). Sub 13 may also hold some stock of Controlled as Q after the Distribution.

LLC 2 has brought a lawsuit (the "Litigation") seeking damages for certain actions taken by the named defendants in the Litigation, beginning around Date E. The Litigation will not go to trial until after the Distribution (as defined below), and even if the Litigation is settled before the Distribution occurs, it is possible that LLC 2 may receive some or all of the proceeds of any such settlement after the Distribution. In conjunction with the Proposed Transaction, Controlled will declare a dividend payable to Sub 7 (the "Special Dividend"). The Special Dividend will obligate Controlled to pay Sub 7 an amount, not to exceed a specified amount based on the outcome of the Litigation.

Consistent with its historical dividend practices, Controlled, on Date F, paid a cash dividend of \$c to Sub 7. Additionally, before the Distribution is consummated, Controlled will declare and pay one or more cash dividends to Sub 7 in an aggregate amount currently expected to be at least \$d (collectively, the "Cash Dividends").

Distributing desires to separate Business B from its other businesses for several business reasons including: (a) to allow the management of each of Distributing and Controlled to focus its efforts on more closely aligned respective firm-wide strategic priorities; (b) to increase the ability of Controlled to pursue strategic transactions, including by using its own equity as an acquisition currency; (c) to enhance the ability of

Controlled to attract, retain and properly incentivize key employees, particularly through the use of its own equity; and (d) to eliminate the possibility that Distributing or Controlled will be placed at a competitive disadvantage relative to its peers because potential clients and strategic partners view Controlled or Distributing, respectively, as a competitor.

Proposed Transaction

To effect the separation of Business A and Business B, Distributing has proposed the following series of transactions (collectively, the “Proposed Transaction”):

- (i) Sub 7 will merge with and into LLC 1, with LLC 1 surviving (the “Sub 7 Merger”).
- (ii) LLC 1 will contribute the stock of Sub 9, preferred stock of Sub 5 and certain other assets received from Sub 7 in the Sub 7 Merger to Sub 8 (the “LLC 1 Contribution”).
- (iii) LLC 1 will distribute the stock of Controlled to Distributing.
- (iv) FSub 6 will distribute all of its assets, subject to its liabilities, to FSub 5 in a complete liquidation of FSub 6 under Country A law (the “FSub 6 Liquidation”).
- (v) FSub 8 will create FNewco and contribute all of its assets (which may include cash) and liabilities associated with Business B in exchange for all the shares of FNewco (the “FSub 8 Contribution”).
- (vi) FSub 8 will transfer all of the stock of FNewco to FSub 5 in exchange for cash, in a transaction that is disregarded for federal income tax purposes.
- (vii) FSub 5 will contribute all of the stock of FSub 7, and possibly cash, to FNewco in exchange for shares of FNewco (together with FSub 8 Contribution, the “FSub 5 Contribution”).
- (viii) FSub 5 will distribute some of the stock of FNewco to FSub 4 and the remainder of the stock of FNewco to Sub 6 (in respect of the Equity Securities), and FSub 4 will then transfer the stock of FNewco it receives to Sub 6 (the two transactions collectively, the “FSub 5 Internal Distribution”).
- (ix) Sub 6 will distribute all of the stock of FNewco to Sub 5 and Distributing (the “Sub 6 Internal Distribution”).
- (x) Sub 5 will distribute the stock of FNewco to Distributing (the “Sub 5 Internal Distribution”).

(xi) For state law purposes, Sub 4 will merge with and into LLC 3.

(xii) Distributing will contribute all of the stock of Sub 1, Sub 2, Sub 3 and FNewco (the "Contributed Subsidiaries") to Controlled in exchange for additional shares of Controlled common stock and the Special Dividend (the "Contribution"). Pursuant to the plan of reorganization, Distributing will, within one year of receipt of any cash paid after the Distribution in respect of the Special Dividend ("Special Dividend Cash"), (a) repay liabilities owed to creditors of Distributing in accordance with § 361(b)(3) and/or (b) distribute to Distributing shareholders either by repurchases of Distributing stock or by making a cash distributions.

(xiii) Controlled will contribute all of the stock of FNewco to Sub 11. Controlled may also contribute the stock of Sub 2 and Sub 3 to Sub 11 at a later time.

(xiv) Distributing will distribute all of the stock of Controlled pro rata to Distributing's shareholders (the "Distribution").

In conjunction with the Proposed Transaction, Distributing and Controlled will enter into several agreements (the "Transaction Agreements") relating to the separation of Business B from Distributing's other businesses, and certain continuing transactions between the companies, including, among others, a tax-sharing agreement, and an agreement for services during a transition period which is generally not expected to exceed e months, with compensation generally based on allocated costs including corporate overhead ("Transition Services"). The Transaction Agreements will also include: (i) agreements relating to post-Distribution intercompany funding provided by Distributing to Controlled and its subsidiaries (the "Intercompany Funding Arrangements"), which is not expected to exceed \$f, will have a term not in excess of g months, and will bear an arm's length rate of interest and otherwise have arm's length commercially reasonable terms for financings of this type; (ii) an agreement with a term of g months pursuant to which funds belonging to certain clients of Distributing may be placed on deposit with Sub 11, (iii) a license agreement pursuant to which Controlled and its subsidiaries will be entitled to use, on a royalty-free basis, certain Distributing trademarks in connection with Business B for up to h years after the Distribution, (iv) certain subleases with respect to shared facilities on rental and other terms consistent with arm's length commercially reasonable terms for agreements of this type, (v) an agreement relating to the provision of certain services by subsidiaries of Distributing and Controlled to each other on an arm's length basis for a period not to exceed e months, and (vi) an agreement relating to the provision by Distributing of certain Business A services to Controlled for a period of h years, on terms consistent with arm's length agreements between unrelated parties.

In addition, each of Sub 11 and LLC 2 has entered, in the ordinary course of business, into certain financial contracts (the "Contracts") with a subsidiary of

Distributing. The Contracts have arm's length terms and have varying maturity dates ranging from Date G to Date H. The Contracts are expected to remain outstanding after the Distribution in accordance with their terms.

In connection with the Distribution, Controlled and Sub 11 will enter into a committed credit facility (the "Credit Facility"). The lead arrangers on the Credit Facility will be unrelated financial institutions, who will syndicate the commitments under the Credit Facility. Distributing or a subsidiary may participate in the syndicate on the same terms and conditions as other members of the syndicate, which terms and conditions will be negotiated at arm's length by the lead arrangers on behalf of the syndicate and will be customary commercial terms. The term for any loan from Distributing or a subsidiary that will be outstanding under the Credit Facility will be less than 1 years.

REPRESENTATIONS

Distributing makes the following representations regarding the Sub 7 Merger:

(a) Distributing has no plan or intention to sell or otherwise dispose of any of the assets of Sub 7 acquired in the Sub 7 Merger, except for (i) dispositions made in the ordinary course of business, (ii) the LLC 1 Contribution and (iii) the Distribution.

(b) The liabilities of Sub 7 assumed (within the meaning of § 357(d)) by Distributing were incurred by Sub 7 in the ordinary course of its business and are associated with the assets transferred.

(c) Following the Sub 7 Merger, Distributing will continue the historic business of Sub 7 or use a significant portion of Sub 7's historic business assets in a business within the meaning of § 1.368-1(d).

(d) The Sub 7 Merger will be carried out to facilitate the Distribution.

(e) No intercorporate indebtedness exists between Sub 7 and Distributing that was issued, acquired, or will be settled at a discount.

(f) No two parties to the Sub 7 Merger are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(g) Sub 7 is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A).

(h) The total fair market value of the assets of Sub 7 transferred to Distributing will equal or exceed the sum of (i) the liabilities assumed (as determined under § 357(d)) by Distributing in connection with the Sub 7 Merger, and (ii) the amount

of liabilities, if any, owed by Sub 7 to Distributing that are discharged or extinguished in the Sub 7 Merger.

Distributing makes the following representations regarding the FSub 6 Liquidation:

(i) FSub 5, on the date of the adoption of the plan of liquidation, and at all times until the final liquidating distribution is completed, will be the owner of at least 80 percent of the single outstanding class of FSub 6 stock.

(j) No shares of FSub 6 stock will have been redeemed during the three years preceding the adoption of the plan of complete liquidation of FSub 6.

(k) FSub 6 will adopt a plan of liquidation specifying that the final liquidating distribution is to be completed within three years from the close of the taxable year of FSub 6 in which the first liquidating distribution is made.

(l) As soon as the first liquidating distribution has been made, FSub 6 will cease to be a going concern and its activities will be limited to winding up its affairs, paying its debts and distributing its remaining assets to its shareholder.

(m) FSub 6 will retain no assets following the final liquidating distribution.

(n) FSub 6 will not have acquired assets in any nontaxable transaction at any time, except for acquisitions occurring more than three years prior to the date of adoption of the plan of liquidation and in the FSub 5 Transfers.

(o) No FSub 6 assets have been, or will be, disposed of by FSub 6 or FSub 5 except for dispositions in the ordinary course of business, dispositions occurring more than three years before the adoption of the plan of liquidation and transfers occurring as part of the Proposed Transaction.

(p) Except for the FSub 8 Contribution, the liquidation of FSub 6 into FSub 5 will not be preceded or followed by the reincorporation in, or transfer or sale to, a recipient corporation ("Recipient") of any of the businesses or assets of FSub 6, if persons holding, directly or indirectly, more than 20 percent in value of the FSub 6 stock also hold, directly or indirectly, more than 20 percent of the stock in Recipient. For purposes of this representation, ownership will be determined by application of the constructive ownership rule of § 318(a) as modified by § 304(c). In the FSub 8 Contribution, approximately 1% of FSub 6's gross assets by book value will be transferred to FNewco. FSub 8's transfer of assets to FNewco in exchange for stock of FNewco is not an exchange described in § 1.367(b)-4(b)(1)(i), § 1.367(b)-4(b)(2)(i), or § 1.367(b)-4(b)(3).

(q) Before the adoption of the plan of liquidation, no FSub 6 assets will have been distributed in kind, transferred or sold to FSub 5, except for (i) transactions occurring in the normal course of business and (ii) transfers occurring more than three years before adoption of the plan of liquidation.

(r) FSub 6 will report all earned income represented by assets that will be distributed to its shareholders such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.

(s) The fair market value of the assets of FSub 6 will exceed its liabilities both at the date of the adoption of the plan of complete liquidation and immediately prior to the time the first liquidating distribution is made.

(t) There is no intercorporate debt existing between FSub 6 and FSub 5 and none has been cancelled, forgiven or discounted, except for transactions that occurred more than three years before the date of adoption of the liquidation plan (or alternatively, if such date is later) except for transactions occurring before the date FSub 5 initially acquired FSub 6.

(u) FSub 5 is not an organization that is exempt from federal income tax under § 501 or any other provision of the Code.

(v) All other transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to, the FSub 6 Liquidation have been fully disclosed.

(w) None of the property distributed by FSub 6 to FSub 5 has been used by FSub 6 in the conduct of a U.S. trade or business within the ten-year period ending on the date of distribution.

Distributing makes the following representations regarding the FSub 5 Contribution and FSub 5 Internal Distribution:

(x) Indebtedness, if any, owed by FNewco to FSub 5 will not constitute "stock or securities."

(y) No part of the FNewco stock to be distributed by FSub 5 will be received by Sub 6 as a creditor, employee or in any capacity other than that of a shareholder of the corporation.

(z) The Equity Securities of FSub 5 owned by Sub 6 are equity for federal income tax purposes.

(aa) With respect to Business A and Business B, the five years of financial information submitted on behalf of the FSub 5 SAG is representative of FSub 5 SAG's present operations, and with regard to such SAG, there have been no substantial operational changes since the date of the last financial statements submitted.

(bb) Following the FSub 5 Internal Distribution, the FSub 5 SAG and FNewco will continue the active conduct of its business independently and with its separate employees or employees of affiliated corporations.

(cc) The FSub 5 Internal Distribution will be carried out for the purpose of facilitating the Distribution.

(dd) The FSub 5 Internal Distribution is not being used principally as a device for the distribution of the earnings and profits of FSub 5, or FNewco, or both.

(ee) The total fair market value of the assets transferred to FNewco in the FSub 5 Contribution will exceed the sum of (i) the amount of liabilities (if any) assumed (within the meaning of § 357(d)) by FNewco in connection with the exchange, and (ii) the amount of liabilities (if any) owed to FNewco by FSub 5 that are discharged or extinguished in connection with the exchange, and (iii) the amount of the cash and the fair market value of any other property (other than stock and securities permitted to be received under § 361(a) without the recognition of gain), if any, received by FSub 5 in connection with the exchange. The fair market value of the assets of FNewco will exceed the amount of its liabilities immediately after the exchange.

(ff) The total adjusted basis of the assets and the fair market value of the assets transferred to FNewco by FSub 5 each will equal or exceed the sum of (i) the liabilities assumed (within the meaning of § 357(d)) by FNewco and (ii) the fair market value of any property (within the meaning of § 361(b)) or any money transferred by FNewco to FSub 5 that is distributed to the shareholders or the creditors of FSub 5.

(gg) The liabilities assumed in the FSub 5 Internal Distribution and the liabilities to which the transferred assets are subject were incurred in the ordinary course of business and are associated with the assets being transferred.

(hh) The total fair market value of the assets transferred in the FSub 5 Contribution will be equal to or exceed the adjusted basis of those assets.

(ii) Other than (i) trade account indebtedness created in the ordinary course of business through continuing transactions at terms comparable to those which could be obtained in an arm's length transaction, (ii) payables for Transition Services, and (iii) indebtedness arising under the Intercompany Funding Arrangements and the Credit Facility, no inter-corporate debt will exist between FSub 5 and FNewco at the time of, or after, the FSub 5 Internal Distribution.

(jj) Payments made in connection with all continuing transactions (other than Transition Services), if any, between FSub 5 (and its affiliates) and FNewco (and its affiliates) will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(kk) No two parties to the FSub 5 Internal Distribution are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(ll) Immediately after the FSub 5 Internal Distribution (as defined in § 355(g)(4)), either (1) no person will hold a 50-percent or greater interest (within the meaning of § 355(g)(3)) in FSub 5 or FNewco, (2) if any person holds a 50-percent or greater interest (within the meaning of § 355(g)(3)) in any disqualified investment corporation (within the meaning of § 355(g)(2)), such person will have held such interest in such corporation immediately before the FSub 5 Internal Distribution, or (3) FSub 5 or FNewco will not be a disqualified investment corporation (within the meaning of § 355(g)(2)).

(mm) For purposes of § 355(d), immediately after the FSub 5 Internal Distribution, no person (determined after applying the aggregation rules of § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of FSub 5 stock entitled to vote, or 50 percent or more of the total value of shares of all classes of FSub 5 stock that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the FSub 5 Internal Distribution.

(nn) For purposes of § 355(d), immediately after the FSub 5 Internal Distribution, no person (determined after applying the aggregation rules of § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of FNewco stock entitled to vote, or 50 percent or more of the total value of shares of all classes of FNewco stock that was either (i) acquired by purchase (as defined in § 355(d)(5) and (8)) during the five year period (determined after applying § 355(d)(6)) ending on the date of the FSub 5 Internal Distribution or (ii) attributable to distributions on FSub 5 stock that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five year period (determined after applying § 355(d)(6) ending on the date of the FSub 5 Internal Distribution.

(oo) The FSub 5 Internal Distribution is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest (within the meaning of § 355(d)(4)) in FSub 5 or FNewco (including any predecessor or successor of any such corporation).

(pp) FSub 5's transfer of assets to FNewco in exchange for stock of FNewco in the FSub 5 Contribution is not an exchange described in § 1.367(b)-4(b)(1)(i), § 1.367(b)-4(b)(2)(i), or § 1.367(b)-4(b)(3).

(qq) FSub 5 and FNewco will be controlled foreign corporations within the meaning of § 957(a) immediately before and after the distribution.

(rr) Sub 6 will be a § 1248 shareholder within the meaning of § 1.367(b)-2(b) with respect to FSub 5 and FNewco immediately before and after the distribution.

(ss) FSub 5 and FNewco will not be passive foreign investment companies ("PFICs") within the meaning of § 1297(a) immediately before or after the distribution.

(tt) FNewco will not hold any United States real property interests as defined in § 897(c)(1) immediately before or after the distribution.

Distributing makes the following representations regarding the Sub 6 Internal Distribution:

(uu) Indebtedness, if any, owed by FNewco to Sub 6 will not constitute "stock or securities."

(vv) No part of the FNewco stock to be distributed by Sub 6 will be received by Sub 5 and Distributing as a creditor, employee or in any capacity other than that of a shareholder of the corporation.

(ww) The five years of financial information submitted on behalf of the Sub 6 SAG with respect to Business A is representative of Sub 6 SAG's present operations, and with regard to such SAG, there have been no substantial operational changes since the date of the last financial statements submitted.

(xx) Following the Sub 6 Internal Distribution, the Sub 6 SAG will continue the active conduct of its business independently and with its separate employees or employees of affiliated corporations.

(yy) The five years of financial information submitted on behalf of FNewco with respect to Business B (as previously conducted by FSub 8) is representative of FNewco's present operations, and with regard to FNewco, there have been no substantial operational changes with respect to such business since the date of the last financial statements submitted.

(zz) Following the Sub 6 Internal Distribution, FNewco will continue the active conduct of its business independently and with its separate employees or employees of affiliated corporations.

(aaa) The Sub 6 Internal Distribution will be carried out for the purpose of facilitating the Distribution.

(bbb) The Sub 6 Internal Distribution is not being used principally as a device for the distribution of the earnings and profits of Sub 6, or FNewco, or both.

(ccc) Other than (i) trade account indebtedness created in the ordinary course of business through continuing transactions at terms comparable to those which could be obtained in an arm's length transaction, (ii) payables for Transition Services, and (iii) indebtedness arising under the Intercompany Funding Arrangements and the Credit Facility, no inter-corporate debt will exist between Sub 6 and FNewco at the time of or after the Sub 6 Internal Distribution.

(ddd) Immediately before the Sub 6 Internal Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-32 I.R.B. 6, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Further, Sub 6's excess loss account with respect to the stock of FNewco, if any, will be included in income before the Sub 6 Internal Distribution (see § 1.1502-19).

(eee) Payments made in connection with all continuing transactions (other than Transition Services), if any, between Sub 6 (and its affiliates) and FNewco (and its affiliates) will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(fff) No two parties to the Sub 6 Internal Distribution are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(ggg) Immediately after the Sub 6 Internal Distribution (as defined in § 355(g)(4)), either (1) no person will hold a 50-percent or greater interest (within the meaning of § 355(g)(3)) in Sub 6 or FNewco, (2) if any person holds a 50-percent or greater interest (within the meaning of § 355(g)(3)) in any disqualified investment corporation (within the meaning of § 355(g)(2)), such person will have held such interest in such corporation immediately before the Sub 6 Internal Distribution, or (3) Sub 6 or FNewco will not be a disqualified investment corporation (within the meaning of § 355(g)(2)).

(hhh) For purposes of § 355(d), immediately after the Sub 6 Internal Distribution no person (determined after applying the aggregation rules of § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Sub 6 stock entitled to vote or 50 percent or more of the total value of shares of all classes of Sub 6 stock that was acquired by purchase (as defined in § 355(d)(5) and

(8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Sub 6 Internal Distribution.

(iii) For purposes of § 355(d), immediately after the Sub 6 Internal Distribution no person (determined after applying the aggregation rules of § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of FNewco stock entitled to vote or 50 percent or more of the total value of shares of all classes of FNewco stock that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five (5) year period (determined after applying § 355(d)(6)) ending on the date of the Sub 6 Internal Distribution or (ii) attributable to distributions on Sub 6 stock that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five year period (determined after applying § 355(d)(6)) ending on the date of the Sub 6 Internal Distribution.

(jjj) The Sub 6 Internal Distribution is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest (within the meaning of § 355(d)(4)) in Sub 6 or FNewco (including any predecessor or successor of any such corporation).

(kkk) FNewco will be a controlled foreign corporation within the meaning of § 957(a) immediately before and after the distribution.

(lll) Sub 5, Distributing, and Sub 6 will be § 1248 shareholders within the meaning of § 1.367(b)-2(b) with respect to FNewco immediately before the distribution, and Sub 5 and Distributing will be § 1248 shareholders with respect to FNewco immediately thereafter.

(mmm) FNewco will not be a PFIC immediately before or after the distribution.

(nnn) With regard to the distribution, Sub 6 will comply with the identification and certification provisions under § 1.367(e)-1(d)(2) in order to establish that Sub 5 and Distributing are qualifying U.S. persons for purposes of applying § 1.367(e)-1.

(ooo) With regard to the distribution, Sub 6 will comply with the reporting procedures established under § 1.367(b)-5(b)(3) in order to establish that Sub 5 and Distributing are corporations for purposes of applying § 1.367(b)-5(b)(1)(i).

Distributing makes the following representations regarding the Sub 5 Internal Distribution:

(ppp) Indebtedness, if any, owed by FNewco to Sub 5 will not constitute "stock or securities."

(qqq) No part of the FNewco stock to be distributed by Sub 5 will be received by Distributing as a creditor, employee or in any capacity other than that of a shareholder of the corporation.

(rrr) The five years of financial information submitted on behalf of the Sub 5 SAG with respect to Business A is representative of the SAG's present operations, and with regard to such SAG, there have been no substantial operational changes since the date of the last financial statements submitted.

(sss) Following the Sub 5 Internal Distribution, the Sub 5 SAG will continue the active conduct of its business independently and with its separate employees or employees of affiliated corporations.

(ttt) The five years of financial information submitted on behalf of FNewco with respect to Business B (as previously conducted by FSub 8) is representative of FNewco's present operations, and with regard to FNewco, there have been no substantial operational changes with respect to such business since the date of the last financial statements submitted.

(uuu) Following the Sub 5 Internal Distribution, FNewco will continue the active conduct of its business independently and with its separate employees or employees of affiliated corporations.

(vvv) The Sub 5 Internal Distribution will be carried out for the purpose of facilitating the Distribution.

(www) The Sub 5 Internal Distribution is not being used principally as a device for the distribution of the earnings and profits of Sub 5, or FNewco, or both.

(xxx) Other than (i) trade account indebtedness created in the ordinary course of business through continuing transactions at terms comparable to those which could be obtained in an arm's length transaction, (ii) payables for Transition Services, and (iii) indebtedness arising under the Intercompany Funding Arrangements and the Credit Facility, no inter-corporate debt will exist between Sub 5 and FNewco at the time of or after the Sub 6 Internal Distribution.

(yyy) Immediately before the Sub 5 Internal Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-32 I.R.B. 6, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Further, Sub 5's excess loss account with respect to the stock of FNewco, if any, will be included in income before the Sub 5 Internal Distribution (see § 1.1502-19).

(zzz) Payments made in connection with all continuing transactions (other than Transition Services), if any, between Sub 5 (and its affiliates) and FNewco (and its affiliates) will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(aaaa) No two parties to the Sub 5 Internal Distribution are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(bbbb) Immediately after the Sub 5 Internal Distribution (as defined in § 355(g)(4)), either (1) no person will hold a 50-percent or greater interest (within the meaning of § 355(g)(3)) in Sub 5 or FNewco, (2) if any person holds a 50-percent or greater interest (within the meaning of § 355(g)(3)) in any disqualified investment corporation (within the meaning of § 355(g)(2)), such person will have held such interest in such corporation immediately before the Sub 5 Internal Distribution, or (3) Sub 5 or FNewco will not be a disqualified investment corporation (within the meaning of § 355(g)(2)).

(cccc) For purposes of § 355(d), immediately after the Sub 5 Internal Distribution no person (determined after applying the aggregation rules of § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Sub 5 stock entitled to vote or 50 percent or more of the total value of shares of all classes of Sub 5 stock that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Sub 5 Internal Distribution.

(dddd) For purposes of § 355(d), immediately after the Sub 5 Internal Distribution no person (determined after applying the aggregation rules of § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of FNewco stock entitled to vote or 50 percent or more of the total value of shares of all classes of FNewco stock that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five (5) year period (determined after applying § 355(d)(6)) ending on the date of the Sub 5 Internal Distribution or (ii) attributable to distributions on Sub 5 stock that was acquired by purchase (as defined in § 355(d)(6) and (8)) during the five year period (determined after applying § 355(d)(6)) ending on the date of the Sub 5 Internal Distribution.

(eeee) The Sub 5 Internal Distribution is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest (within the meaning of § 355(d)(4)) in Sub 5 or FNewco (including any predecessor or successor of any such corporation).

(ffff) FNewco will be a controlled foreign corporation within the meaning of § 957(a) immediately before and after the distribution.

(gggg) Each of Distributing and Sub 5 will be a § 1248 shareholder within the meaning of § 1.367(b)-2(b) with respect to FNewco immediately before the distribution, and Distributing will be a § 1248 shareholder with respect to FNewco immediately thereafter.

(hhhh) FNewco will not be a PFIC immediately before or after the distribution.

(iiii) With regard to the distribution, Sub 5 will comply with the identification and certification provisions under § 1.367(e)-1(d)(2) in order to establish that Distributing is a qualifying U.S. person for purposes of applying § 1.367(e)-1.

(jjjj) With regard to the distribution, Sub 5 will comply with the reporting procedures established under § 1.367(b)-5(b)(3) in order to establish that Distributing is a corporation for purposes of applying § 1.367(b)-5(b)(1)(i).

Distributing makes the following representations regarding the Contribution and Distribution:

(kkkk) Distributing, Controlled and the Distributing shareholders each will pay its or their own expenses, if any, incurred in connection with the Distribution.

(llll) Indebtedness, if any, owed by Controlled to Distributing will not constitute "stock or securities," except for the Q Debt.

(mmmm) No part of the consideration to be distributed by Distributing will be received by a shareholder as a creditor, employee or in any capacity other than that of a shareholder of the corporation.

(nnnn) The five years of financial information submitted on behalf of Distributing with respect to Business A conducted by LLC 3 (formerly Sub 4) is representative of LLC 3's present operations, and with regard to LLC 3, there have been no substantial operational changes since the date of the last financial statements submitted.

(oooo) Following the Distribution, Distributing, through LLC 3, will continue the active conduct of its business independently and with its separate employees or employees of affiliated corporations.

(pppp) The five years of financial information submitted on behalf of Controlled with respect to Business B conducted by Controlled (through LLC 2) is representative of LLC 2's present operations, and with regard to LLC 2, there have been no substantial operational changes since the date of the last financial statements submitted.

(qqqq) Controlled has continuously owned, directly or indirectly, 100 percent of the interests of LLC 2 (or 100 percent of the stock of its predecessor, Sub 12) for at least the five-year period ending on the date of Distribution.

(rrrr) Following the Distribution, Controlled (through LLC 2) will continue the active conduct of its business independently and with its separate employees or employees of affiliated corporations.

(ssss) The distribution of the stock of Controlled is primarily carried out for the Corporate Business Purposes of (a) allowing the management of Distributing and Controlled to focus its efforts on more closely aligned respective firm-wide strategic priorities; (b) increasing the ability of Controlled to pursue strategic transactions, including by using its own equity as an acquisition currency; (c) enhancing the ability of Controlled to attract, retain and properly incentivize key employees, particularly through the use of its own equity; and (d) eliminating the possibility that Distributing or Controlled will be placed at a competitive disadvantage relative to its peers because potential clients and strategic partners view Controlled or Distributing, respectively, as a competitor.

(tttt) The Distribution is not being used principally as a device for the distribution of the earnings and profits of Distributing, or Controlled, or both.

(uuuu) The total fair market value of the assets transferred by Distributing to Controlled will each equal or exceed the sum of (i) the amount of liabilities (if any) assumed (within the meaning of § 357(d)) by Controlled in connection with the exchange, (ii) the amount of liabilities (if any) owed to Controlled by Distributing that are discharged or extinguished in connection with the exchange, and (iii) the amount of the cash and the fair market value of any other property (other than stock or securities permitted to be received under § 361(a) without the recognition of gain) received by Distributing in the exchange. The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the exchange.

(vvvv) The total adjusted basis and the fair market value of the assets transferred to Controlled by Distributing will each equal or exceed the sum (i) of the liabilities assumed (within the meaning of § 357(d)) by Controlled and (ii) the fair market value of any other property (within the meaning of § 361(b)) and the amount of any other money transferred by Controlled to Distributing that is distributed to the creditors of Distributing pursuant to the plan of reorganization.

(www) The total fair market value of the assets transferred to Controlled in the Contribution equals or exceeds the adjusted basis of those assets.

(xxxx) The liabilities assumed by Controlled in the transaction were incurred in the ordinary course of business and are associated with the assets being transferred.

(yyyy) Other than (i) trade account indebtedness created in the ordinary course of business through continuing transactions at terms comparable to those which could be obtained in an arm's length transaction, (ii) payables for Transition Services, and (iii) indebtedness arising under the Intercompany Funding Arrangements and the Credit Facility, and (iv) the Q Debt, no inter-corporate debt will exist between Distributing and Controlled at the time of the Distribution.

(zzzz) Immediately after the Distribution (as defined in § 355(g)(4)), either (1) no person will hold a 50-percent or greater interest (within the meaning of § 355(g)(3)) in Distributing or Controlled, (2) if any person holds a 50-percent or greater interest (within the meaning of § 355(g)(3)) in any disqualified investment corporation (within the meaning of § 355(g)(2)), such person will have held such interest in such corporation immediately before the Distribution, or (3) Distributing or Controlled will not be a disqualified investment corporation (within the meaning of § 355(g)(2)).

(aaaaa) For purposes of § 355(d), immediately after the Distribution no person (determined after applying the aggregation rules of § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Distributing stock entitled to vote or 50 percent or more of the total value of shares of all classes of Distributing stock that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Distribution.

(bbbbb) For purposes of § 355(d), immediately after the Distribution no person (determined after applying the aggregation rules of § 355(d)(7)) will hold stock possessing 50 percent or more of the total combined voting power of all classes of Controlled stock entitled to vote or 50 percent or more of the total value of shares of all classes of Controlled stock that was either (i) acquired by purchase (as defined in § 355(d)(5) and (8)) during the five (5) year period (determined after applying § 355(d)(6)) ending on the date of Distribution or (ii) attributable to distributions on the Distributing common stock that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five year period (determined after applying § 355(d)(6) ending on the date of the Distribution.

(ccccc) The Distribution is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest (within the meaning of § 355(d)(4)) in Distributing or Controlled (including any predecessor or successor of any such corporation).

(ddddd) Immediately before the Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see §§ 1.1502-13 and 1.1502-14 as in effect before the publication of T.D. 8597, 1995-32 I.R.B. 6, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Further, Distributing's excess loss account with respect to the stock of Controlled, if any, will be included in income before the Distribution (see § 1.1502-19).

(eeeeee) Payments made in connection with all continuing transactions (other than Transition Services), if any, between Distributing (and its affiliates) and Controlled (and its affiliates) will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.

(fffff) No two parties to the Distribution are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).

(ggggg) Distributing's past practice has been to cause Controlled to distribute a substantial percentage of its earnings to the extent that such earnings exceed the capital needs of its business.

(hhhhh) The Cash Dividends have been and will be paid in accordance with this past practice. Even in the absence of the Distribution, Controlled would have distributed an amount equal to or greater than the amount of the Cash Dividends in respect of its earnings through the date of the Distribution.

(iiiiii) Distributing would have caused Controlled to distribute the Cash Dividends prior to the Distribution even if the Distribution were being effected without the contribution of the Contributed Subsidiaries to Controlled.

(jjjjj) Distributing will, within one year of the receipt of any Special Dividend Cash, make distributions to its shareholders (either by repurchasing shares of Distributing common stock or by making dividend distributions to holders of Distributing common stock) and/or repay liabilities owed to unrelated third-party creditors of Distributing, but not in excess of Distributing's basis in the Controlled Subsidiaries, reduced by the amount of liabilities assumed by Controlled within the meaning of § 357(b) and (c), that were not incurred in anticipation of the Proposed Transaction, in an aggregate amount equal to the amount of Special Dividend Cash received.

(kkkkk) Neither Distributing nor Controlled has been a U.S. real property holding corporation ("USRPHC") as defined in § 897(c)(2) at any time during the five-year period ending on the date of the distribution.

(lllll) Neither Distributing nor Controlled will be a USRPHC immediately after the distribution.

RULINGS

Sub 7 Merger

Based on the information submitted and representations made, we rule as follows on the Sub 7 Merger:

- (1) Provided that the Sub 7 Merger constitutes a statutory merger under applicable law, the Sub 7 Merger will qualify as a reorganization within the meaning of § 368(a)(1)(A). The Sub 7 Merger will not be disqualified by reason of the LLC 1 Contribution (§ 368(a)(2)(C)). Distributing and Sub 7 will each be “a party to a reorganization” within the meaning of § 368(b).
- (2) No gain or loss will be recognized by Sub 7 on the transfer of its assets to Distributing in exchange for Distributing common stock and the assumption by Distributing of the liabilities in the Sub 7 Merger (§§ 361(a) and 357(a)).
- (3) No gain or loss will be recognized by Distributing on the receipt of the assets of Sub 7 acquired in exchange for the Distributing common stock and the assumption of liabilities by Distributing in the Sub 7 Merger (§ 1032(a)).
- (4) Distributing’s basis in each asset received from Sub 7 will be the same as the basis of such asset in the hands of Sub 7 immediately before the Sub 7 Merger (§ 362(b)).
- (5) Distributing’s holding period in each asset received from Sub 7 will include the period during which Sub 7 held that asset (§ 1223(2)).
- (6) Distributing will succeed to and take into account, as of the close of the date of the Sub 7 Merger, the items of Sub 7 described in § 381(c), subject to the conditions and limitations specified in §§ 381, 382, 383, and 384 and the regulations thereunder (§ 381(a) and § 1.381(a)).
- (7) Distributing will succeed to and take into account the earnings and profits, or the deficit in earnings and profits, of Sub 7 as of the date of the Sub 7 Merger (§ 381(c)(2)(A); §§ 1.381(c)(2)-1, and 1.1502-33). Any deficit in the earnings and profits of Distributing or Sub 7 will be used only to offset earnings and profits accumulated after the date of the Sub 7 Merger (§ 381(c)(2)(B)).

FSub 6 Liquidation

Based on the information submitted and representations made, we rule as follows on the FSub 6 Liquidation:

(8) The FSub 6 Liquidation will qualify as a complete liquidation of FSub 6 under § 332.

(9) No gain or loss will be recognized by FSub 5 on the FSub 6 Liquidation (§§ 332(a)).

(10) No gain or loss will be recognized by FSub 6 on the distribution of its assets to FSub 5 (336(d)(3) and 337(a)).

(11) FSub 5's basis in each asset received from FSub 6 in the FSub 6 Liquidation will equal the basis of that asset in the hands of FSub 6 immediately before the FSub 6 Liquidation (§ 334(b)(1)).

(12) FSub 5's holding period in each asset received from FSub 6 in the FSub 6 Liquidation will include the period during which that asset was held by FSub 6 (§ 1223(2)).

(13) FSub 5 will succeed to and take into account the items of FSub 6 described in § 381(c), subject to the conditions and limitations specified in §§ 381, 382, 383, and 384 and the regulations thereunder (§ 381(a) and § 1.381(a)-1).

FSub 5 Contribution and the FSub 5 Internal Distribution

Based on the information submitted and representations made, we rule as follows on the FSub 5 Contribution and Distribution:

(14) The FSub 5 Contribution followed by the FSub 5 Internal Distribution will constitute a reorganization within the meaning of § 368(a)(1)(D). FSub 5 and FNewco will each be "a party to a reorganization" within the meaning of § 368(b).

(15) FSub 5 will not recognize any gain or loss on the FSub 5 Contribution (§§ 361(a) and 357(a)).

(16) FNewco will not recognize any gain or loss on the FSub 5 Contribution (§ 1032(a)).

(17) FNewco's basis in each asset transferred in the FSub 5 Contribution will be the same as the basis of that asset in the hands of FSub 5 immediately before the transfer (§ 362(b)).

(18) FNewco's holding period in each asset received from FSub 5 in the FSub 5 Contribution will include the period during which FSub 5 held that asset (§ 1223(2)).

(19) FSub 5 will not recognize any gain or loss on the FSub 5 Internal Distribution (§ 361(c)(1)).

(20) Sub 6 will not recognize any gain or loss (and no amount will be included in income) upon its receipt of the FNewco ordinary shares (§ 355(a)).

(21) The aggregate basis of the FSub 5 ordinary shares, the Equity Securities and the FNewco ordinary shares in the hands of Sub 6 after the FSub 5 Internal Distribution will be the same as its aggregate basis in the FSub 5 ordinary shares and the Equity Securities immediately before the FSub 5 Internal Distribution, allocated between the FSub 5 ordinary shares, the Equity Securities and the FNewco ordinary shares in proportion to the fair market value of each in accordance with § 1.358-2(a)(2) and § 358.

(22) The holding period of the FNewco ordinary shares received by Sub 6 will include the holding period of the FSub 5 ordinary shares with respect to which the FNewco ordinary shares are distributed, provided that such FSub 5 ordinary shares are held as a capital asset on the date of the FSub 5 Internal Distribution (§ 1223(1)).

(23) Earnings and profits will be allocated between FSub 5 and FNewco in accordance with § 312(h).

(24) The FSub 5 Contribution to FNewco will be an exchange to which § 1.367(b)-1(c) and 1.367(b)-4(a) apply.

(25) The FSub 5 Internal Distribution will be a distribution to which § 1.367(b)-1(c), 1.367(b)-5(a), 1.367(b)-5(c), and 1.367(b)-5(f) apply. If Sub 6's post distribution amount (as defined in § 1.367(b)-5(e)(2)) with respect to FSub 5 or FNewco is less than its predistribution amount (as defined in § 1.367(b)-5(e)(1)) with respect to FSub 5 or FNewco, Sub 6's basis in such stock immediately after the distribution must be reduced by the amount of the difference. However, Sub 6's basis in such stock must not be reduced below zero, and to the extent the foregoing reduction would reduce its basis below zero, Sub 6 must instead include such amount in income as a deemed dividend from such corporation. If Sub 6 reduces the basis in the stock of FSub 5 or FNewco (or has an inclusion with respect to such stock), Sub 6 must increase its basis in the stock of the other corporation to the extent provided § 1.367(b)-5(c)(4) (§ 1.367(b)-5(c)).

Sub 6 Internal Distribution

Based on the information submitted and representations made, we rule as follows on the Sub 6 Internal Distribution:

(26) Sub 5 and Distributing will not recognize any gain or loss (and no amount will be included in income) upon their receipt of the FNewco ordinary shares (§ 355(a)).

(27) Sub 6 will not recognize any gain or loss on the Sub 6 Internal Distribution (§ 355(c)).

(28) Section 1248(f)(1) will not apply to the Sub 6 Internal Distribution (§ 1248 (f)(2); Notice 87-64, 1987-2 C.B. 375).

(29) The basis of the FNewco ordinary shares in the hands of Sub 5 and Distributing immediately after the Sub 6 Internal Distribution shall be the lesser of the adjusted basis of such ordinary shares in the hands of Sub 6 or the substituted basis allocated to FNewco's ordinary shares in accordance with § 1.358-2(a)(2) (§ 1248(f)(2); Notice 87-64, 1987-2 C.B. 375).

(30) The holding period of the FNewco ordinary shares received by Sub 5 and Distributing shall be the greater of the holding period of the FNewco ordinary shares in the hands of Sub 6 or the holding period of the FNewco ordinary shares in the hands of Sub 5 and Distributing (§ 1248(f)(2); Notice 87-64, 1987-2 C.B. 375).

(31) The earnings and profits of FNewco, to the extent attributable to such stock under §§ 1.1248-2 or 1.1248-3 (whichever is applicable), which were accumulated in taxable years of such foreign corporations beginning after December 31, 1962, and during the periods that FNewco was a controlled foreign corporation, shall be attributable to such stock (§ 1223(1); § 1.1248-1(a)).

(32) Earnings and profits will be allocated between Sub 6 and FNewco in accordance with § 312(h).

Sub 5 Internal Distribution

Based on the information submitted and representations made, we rule as follows on the Sub 5 Internal Distribution:

(33) Distributing will not recognize any gain or loss (and no amount will be included in income) upon its receipt of the FNewco ordinary shares (§ 355(a)).

(34) Sub 5 will not recognize any gain or loss on the Sub 5 Internal Distribution (§ 355(c)).

(35) Section 1248(f)(1) shall not be applicable to the distribution by Sub 5 of the FNewco ordinary shares to Distributing (§ 1248(f)(2); Notice 87-64, 1987-2 C.B. 375)

(36) The basis of the FNewco ordinary shares received by Distributing in the Sub 5 Internal Distribution in the hands of Distributing immediately after the Sub 5

Internal Distribution shall be the lesser of the adjusted basis of such ordinary shares in the hands of Sub 5 or the substituted basis allocated to FNewco's ordinary shares in accordance with § 1.358-2(a)(2) (§ 1248(f)(2); Notice 87-64, 1987-2 C.B. 375).

(37) The holding period of the FNewco ordinary shares received by Distributing in the Sub 5 Internal Distribution shall be the greater of the holding period of the FNewco ordinary shares in the hands of Sub 5 or the holding period of the FNewco ordinary shares in the hands of Distributing (§ 1248(f)(2); Notice 87-64, 1987-2 C.B. 375).

(38) The earnings and profits of FNewco, to the extent attributable to such stock under §§ 1.1248-2 or 1.1248-3 (whichever is applicable), which were accumulated in taxable years of such foreign corporations beginning after December 31, 1962, and during the periods that FNewco was a controlled foreign corporation, shall be attributable to such stock (§ 1223(1); § 1.1248-1(a)).

(39) Earnings and profits will be allocated between Sub 5 and FNewco in accordance with § 312(h).

Contribution and Distribution

Based on the information submitted and representations made, we rule as follows on the Contribution and Distribution:

(40) The Contribution followed by the Distribution will constitute a reorganization within the meaning of § 368(a)(1)(D). Distributing and Controlled will each be "a party to a reorganization" within the meaning of § 368(b).

(41) Distributing will not recognize any gain or loss on the Contribution (§§ 357(a) and 361(a), (b)).

(42) Controlled will recognize no gain or loss on the Contribution (§ 1032(a)).

(43) Controlled's basis in each asset transferred in the Contribution will be the same as the basis of that asset in the hands of Distribution immediately before the transfer (§ 362(b)).

(44) Controlled's holding period in each asset received from Distributing in the Contribution will include the period during which Distributing held that asset (§ 1223(2)).

(45) Distributing will recognize no gain or loss on the Distribution (§ 361(c)(1)).

(46) The Distributing shareholders will recognize no gain or loss (and no amount will be included in the income) upon their receipt of the Controlled common stock (§ 355(a)).

(47) The aggregate basis of the Distributing common stock and the Controlled common stock (including fractional share interests to which the shareholders may be entitled) in the hands of the Distributing shareholders after the Distribution will be the same as their aggregate basis in the Distributing common stock immediately before the Distribution, allocated between the Distributing common stock and the Controlled common stock in proportion to the fair market value of each in accordance with § 1.358-2(a)(2) (§ 358(a)(1), (b) and (c)). If a Distributing shareholder that purchased or acquired shares of Distributing common stock on different dates or at different prices is not able to identify which particular share of Controlled common stock is received with respect to a particular share of Distributing common stock, the shareholder may designate which share of Controlled common stock is received with respect to a particular share of Distributing common stock, provided the terms of the designation are consistent with the terms of the Distribution.

(48) The holding period of the Controlled common stock (including fractional share interests) received by the Distributing shareholders will include the holding period of the Distributing common stock with respect to which the Controlled common stock is distributed, provided that such Distributing common stock is held as a capital asset on the date of Distribution (§ 1223(1)).

(49) Earnings and profits will be allocated between Distributing and Controlled in accordance with § 312(h).

(50) Payments received by Controlled with respect to the Litigation that have not become fixed or ascertainable until after the date of the Sub 7 Merger and the Distribution (and that have not already been included in Controlled's income as of such date) will be included in Controlled's gross income.

(51) Payments made by Controlled pursuant to the Special Dividend in respect of damages claimed in the Litigation that (i) have arisen or will arise for a taxable period ending on or before the Distribution or for a taxable period beginning before and ending after the Distribution and (ii) will not become fixed and ascertainable until after the Distribution, will be treated as occurring before the Distribution (Arrowsmith v. Commissioner, 344 U.S. 6 (1952)).

(52) The Cash Dividends will be treated as distributions to which § 301 applies (§ 301(a), § 1.1502-13(f)(2)).

(53) Upon the Contribution, the earnings and profits of FNewco, to the extent attributable to such stock under §§ 1.1248-2 or 1.1248-3 (whichever is applicable),

which were accumulated in taxable years of such foreign corporations beginning after December 31, 1962, and during the periods that FNewco was a controlled foreign corporation, shall be attributable to such stock (§ 1223(2); § 1.1248-1(a)).

(54) Upon Controlled's contribution of FNewco to Sub 11, the earnings and profits of FNewco, to the extent attributable to such stock under §§ 1.1248-2 or 1.1248-3 (whichever is applicable), which were accumulated in taxable years of such foreign corporations beginning after December 31, 1962, and during the periods that FNewco was a controlled foreign corporation, shall be attributable to such stock (§ 1.1248-1(a)).

CAVEATS

We express no opinion about the tax treatment of the proposed transactions under other provisions of the Code and regulations or the tax treatment of an conditions existing at the time of, or effects resulting from, the proposed transactions that are not specifically covered by the above rulings. In particular, no opinion is given regarding whether the proposed transaction: (i) satisfies the business purpose requirement of § 1.355-2(b), (ii) is used principally as a device for the distribution of earnings and profits of the distributing corporation or the controlled corporation or both (see § 355(a)(1)(B) and § 1.355-2(d)); and (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in the distributing corporation or the controlled corporation.

Additionally, no opinion is expressed:

(i) On whether any or all of the foreign corporations involved in this transaction are PFICs. If it is determined that any or all of the foreign corporations are PFICs, no opinion is expressed with respect to the application of §§ 1291 through 1298 to the proposed transactions. In particular, in a transaction in which gain is not otherwise recognized, regulations under § 1291(f) may require gain recognition notwithstanding any other provision of the Code.

(ii) About the applicability of § 367 and the regulations promulgated thereunder to the taxpayer's proposed restructuring transactions. In particular, no opinion is expressed about the application of § 367(b) or § 367(e) to any of the restructuring transactions or to the Distribution. Furthermore, no opinion is expressed about the adjustments to earnings and profits, or deficits in earnings and profits, if any, in any of the transactions to which § 367(a) or (b) applies.

(iii) Regarding the applicability of § 1503(d) and the regulations promulgated thereunder to any dual resident corporation that is involved in a putative triggering event in connection with any of the transactions described above. In particular, no opinion is expressed regarding the application of the § 1503(d) regulations to the Distribution.

(iv) On whether the Equity Securities are equity for federal income tax purposes.

(v) Regarding the federal income tax consequences of the Transaction Agreements, the FSub 5 Transfers or on the transfers described in step (xiii).

PROCEDURAL STATEMENTS

This ruling letter is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, a taxpayer filing its return electronically may satisfy this requirement by attaching a statement to the return that provides the date and control number of this letter ruling.

In accordance with the power of attorney on file in this office, a copy of this ruling letter will be sent to your authorized representative.

Sincerely,

Richard K. Passales
Senior Counsel, Branch 4
Associate Chief Counsel (Corporate)